IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 12135 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

SIMANDHAR SWAMI JIN MANDIR PEDHI

Versus

Appearance:

1. Special Civil Application No. 12135 of 2001

MR PK JANI for Petitioner No. 1

MR KAMAL TRIVEDI, Addl.A.G. with Mr.P.R.Joshi, APG. for Respondent No. 1-3

CORAM : MR.JUSTICE D.A.MEHTA

Date of decision: 28/06/2002

ORAL JUDGEMENT

1 Rule.Mr.P.R.Joshi, learned AGP appears and waives service of Rule. At the request of the learned Advocates appearing for the respective parties the matter is taken

up for final hearing.

2 The petitioner is a Public religious trust. It appears that by communication dated __/10/1991 and 6/7/1992, the petitioner trust was permitted to grow the trees on open land abutting the State Highway passing through Mehsana town and this strip of land was between the wall of temple premises and the State Highway. It appears that the petitioner developed a garden and fenced the same. The respondent authorities took action by considering the same to be an encroachment on Government land. It is this action which is under challenge in this petition.

3 Heard Mr.P.K.Jani, learned Advocate for the petitioner and Mr.Kamal Trivedi, learned Addl.A.G. with Mr.Premal Joshi, learned A.G.P. appearing on behalf of the respondents. After the petition was heard Mr.Jani seeks permission to withdraw the petition to make a representation before the authorities. Permission granted.

4 It is expected that both the sides should consider the aspect that growing of trees is an activity which requires to be appreciated and undertaken but at the same time it cannot be of such a nature that it would create encroachment and cause obstruction to other users of the road. Keeping this aspect into consideration, both the sides need to resolve the issue by sitting across the table. The petition stands disposed off as withdrawn. Rule discharged. Interim relief stands vacated. There shall be no order as to costs.

(D.A.Mehta, J)

m.m.bhatt